

1 You described sometime after 9 a.m. in Ferndale. You and I  
2 talked about this?

3 A Yes.

4 Q I accept that you don't know precisely when you  
5 got there, it was sometime after nine. How is it that you  
6 now recall what you told Mr. Helmick, that you had to wait  
7 20 minutes after entering the Ferndale building, before you  
8 met someone other than the at WVOS? How is it you recall  
9 this?

10 A I don't recall you specifically asking how long  
11 was it between first entering the building and speaking to  
12 someone representing WJUX.

13 Q Well, I didn't. I think I did not push that point  
14 with you when we spoke the other day, because in your  
15 written answer to my interrogatory, you said at page 263 of  
16 Bureau Exhibit 17 that was located in the building of which  
17 WXTM was located, beginning that full paragraph on page 263,  
18 you say, "I arrived at WXTM around 10 a.m. and observed a  
19 few people at that location." You then say, "I may have  
20 incidently spoken to the board operator at that time."  
21 That's all you say about that.

22 Is this now the person whom you asked to go find  
23 someone for you?

24 A I believe that I asked the board operator, if I  
25 remember correctly, the board operator for WVOS.

1           Q     Now, you then say it was 20 minutes later before  
2 someone came to you and that that person was Mr. Blabey, is  
3 that right?

4           A     At the utmost, it was 20. It could have been as  
5 quickly as ten. It was between ten and 20 minutes, I would  
6 say.

7           Q     You say Mr. Blabey was not in the studio building  
8 at that time, he came in from outside?

9           A     Right, I had to wait.

10          Q     But, is it not possible that he had only stepped  
11 out of the studio building and was on the grounds of the  
12 studio building and came in while you were standing in  
13 there?

14          A     It's possible.

15          Q     We're talking about something that may have been  
16 as short as ten, and you weren't timing it, were you?

17          A     No, I wasn't.

18          Q     So, it may have been shorter, is that possible?  
19 Do you agree?

20          A     Shorter than ten minutes? I doubt it.

21          Q     You then said you met Ms. Montana after meeting  
22 Mr. Blabey, isn't that the sequence you testified to when  
23 Mr. Helmick was questioning you?

24          A     Yes.

25          Q     You said that, I take it this is by your

1 observation, that she was not in her office space when you  
2 first came into the building, is that correct?

3 A To the best of my recollection.

4 Q Are these points as clear in your recollection as  
5 the rest of April 15?

6 A No, those points are rather hazy.

7 JUDGE STEINBERG: Which points?

8 THE WITNESS: The points dealing with who was  
9 there when I arrived, the timing, who I asked initially.  
10 You know, can I speak to someone about WJUX, all that  
11 initial time. I'm not very clear at all.

12 BY MR. RILEY:

13 Q One more question and at this point we're turning  
14 the dead horse into dog food. Would it be accurate for you  
15 to say, as I think you had suggested, that when you tried to  
16 determine whether you first spoke with Mr. Turro on the  
17 phone or first spoke with Mr. Blabey face to face about  
18 remote control, that you are speculating about which came  
19 first?

20 A Yes, presented with Your Honor's logic that, you  
21 know, if it were the other way around, I probably would not  
22 have asked something. In my mind, I'm speculating to a high  
23 degree that I probably spoke to Mr. Turro first about remote  
24 control and then Mr. Blabey.

25 JUDGE STEINBERG: But, you don't know?

1 THE WITNESS: No, not to any -- I just don't  
2 recall.

3 MR. RILEY: I have no other questions.

4 JUDGE STEINBERG: Let me ask Mr. Aronowitz  
5 something. Is there a possibility of Mr. Loginow being  
6 recalled? You don't know at this point?

7 MR. ARONOWITZ: You know, it's hard to say at this  
8 point. It would appear that there are other witnesses for  
9 whom some of these questions might be directed, and I  
10 suppose there is always a hypothetical chance that something  
11 that comes up requires -- given all the speculating that  
12 we're doing here in this short of time.

13 I would imagine there's a possibility.

14 JUDGE STEINBERG: Okay, well, I'm going to ask.

15 MR. ARONOWITZ: However --

16 JUDGE STEINBERG: Okay, there's a however.

17 MR. ARONOWITZ: I'll deal with this off the  
18 record.

19 JUDGE STEINBERG: Well, I'm going to instruct Mr.  
20 Loginow not to discuss his testimony here today with anyone  
21 other than Bureau counsel, Mr. Helmick or any of the  
22 engineers that are associated with them. Until they tell  
23 you you can talk to other people about your testimony here  
24 today and this case, etc., don't do it. The possibility is  
25 that you're going to be recalled, and whatever your

1 testimony is going to be, at that time, I want it to be your  
2 testimony out of your head, not something that someone told  
3 you or something you may have heard from somebody about what  
4 other testimony has been in this room during the next  
5 however long this takes. It's going to take this week and a  
6 good part of next week.

7 Do you understand that instruction? You can talk  
8 to your counsel, you can talk to Mr. Helmick and any other  
9 engineers. Any problem with that, Mr. Naftalin?

10 MR. NAFTALIN: No problem.

11 JUDGE STEINBERG: Mr. Riley?

12 MR. RILEY: No problem, Your Honor.

13 JUDGE STEINBERG: The same instruction will go to  
14 the witnesses for Mr. Turro and Mr. Weis. So, I mean, I  
15 know where we're headed here and I just don't want any  
16 problems down the road.

17 THE WITNESS: I assume that holds true for my  
18 supervisor. I'm bound to come back and he'll say, well, how  
19 did it go.

20 JUDGE STEINBERG: You just tell him the Judge said  
21 I can't talk about this.

22 THE WITNESS: Fine.

23 JUDGE STEINBERG: That way, you can drive him  
24 crazy.

25 THE WITNESS: No problem. I like it.

1 JUDGE STEINBERG: Okay, and the Judge wishes your  
2 supervisor a Merry Christmas and a Happy New Year, and you  
3 can talk to him about it after that.

4 So, let's be in recess until tomorrow morning at  
5 what, 8:30, 9:00, 7:30? Okay, 9:30?

6 MR. ARONOWITZ: At 9:30.

7 JUDGE STEINBERG: Did you want to say something  
8 more on the record?

9 MR. ARONOWITZ: No.

10 JUDGE STEINBERG: Good. We'll go off the record  
11 now.

12 (Whereupon, at 5:30 p.m., the hearing was  
13 recessed, to reconvene at 9:30 a.m. on Wednesday, December  
14 3, 1997.)

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**REPORTER'S CERTIFICATE**

**FCC DOCKET NO.:** MM Docket No. 97-122

**CASE TITLE:** Gerard R. Turro

**HEARING DATE:** December 2, 1997

**LOCATION:** Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

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